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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,303	03/16/2001	Kazuo Ishiwari	0020-4834P	9616
2292	7590	03/02/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			RHEE, JANE J	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/787,303

Applicant(s)

ISHIWARI ET AL.

Examiner

Jane J Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Rejections Repeated

1. The 35 U.S.C. 103 rejection of claims 1-3,9-17 over Ebnesajjad et al. has been repeated for the reasons previously made in Paper 17 paragraph 1.

New Rejections

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebnesajjad et al. (5683639).

Ebnesajjad et al. discloses a polytetrafluoroethylene molded article that is cylindrical (col. 2 line 44) with a height of 89mm (col. 8 line 34-35). Ebnesajjad et al. fail to disclose that the height is at least 800mm.

Ebnesajjad et al. teaches various sizes of cylindrical billets (col. 5 lines 14) therefore, it would have obvious to one of ordinary skill in the art at the time applicant's invention was made to provide a height of at least 800mm since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237, (CCPA 1955).

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The method comprising inserting a polytetrafluoroethylene perform obtained by compression-molding a polytetrafluoroethylene powder, into a pipe in a state which a symmetry axis of the perform is horizontal; placing the pipe on two rolls spaced apart in a horizontal direction; and heating the perform to back the perform while rotating the pipe and the perform by rotating at least one roll to transmit a rotation of the roll to the pipe, wherein the polytetrafluoroethylene block shaped molded article is produced and has a melt viscosity and a block deformation amount contained within a polygonal region surrounded by a straight line A: $x=1.0 \times 10^9$ (melt viscosity of 1.0×10^9 poise), a straight line B: $x=2.5 \times 10^{10}$ (melt viscosity of 2.5×10^{10} poise), a straight line C1: $y=7.0$ (block deformation amount of 7.0%), a straight line D1: $y=0$ (block deformation amount of 0%), and a straight line E1: $y=-8.7\log_{10}(x)+91$ in a graph with an x-axis being a common logarithm of the melt viscosity (poise) at 380°C of polytetrafluoroethylene and a y axis being the block deformation amount(%) which is a weight loss until a stable film or sheet can be cut from the molded article is a process limitation. Process limitations are given little or no patentable weight. The method of forming the product is not germane to the issue of patentability of the product itself. Further, when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claim in a product-by-process claim, the burden is on the Applicant to present evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. *In re Brown*, 459 F.2d 531, 173 USPQ 685 (CCPA 1972); *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974). This burden is NOT discharged solely because the product was derived

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from a process not known to the prior art. *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974).

Response to Amendment

3. The Declaration under 37 CFR 1.132 filed 11/26/03, Yamada is insufficient to overcome the rejection of claims 1-3,9-19 based upon 35 U.S.C. 103 rejection over Ebnesajjad et al. as set forth in the last Office action because: It include(s) statements which amount to an affirmation that the claimed subject matter functions as it was intended to function. This is not relevant to the issue of nonobviousness of the claimed subject matter and provides no objective evidence thereof. See MPEP § 716.

Response to Arguments

4. Applicant's arguments filed 11/26/03 have been fully considered but they are not persuasive.

In response to applicant's argument that the present invention has unexpectedly achieved a polytetrafluoroethylene blocked shaped molded article with less block deformation as seen from the declaration submitted by the applicant, the examiner respectfully disagrees. The Declaration under 37 C.F.R. 1.132 submitted by the applicant concluded two points, which were that the articles with the same melt viscosity would have different deformation amounts depending on the size wherein the bigger the article was the larger the deformation amount there were. Also the applicant pointed out that articles with the same size would have different deformation amounts depending on the melt viscosity wherein the larger the melt viscosity was the smaller

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the deformation amount was. The Examiner admitted previously that Ebnesajjad et al. does not explicitly teach the height of the block desired by the applicant, however, the examiner maintains a height of 800mm would be obvious, as stated previously. Therefore, a molded block with a similar height and a similar melt viscosity would inherently be expected to produce a similar deformation amount. Applicant's argument that a larger article with the same melt viscosity will produce a different deformation compared to a smaller article is noted. However, the size of article taught by applicant is held to be obvious in view of Ebnesajjad et al., as stated previously. Therefore, applicant's argument is moot based on an article with a similar size. Applicant's argument that an article with the same size and different melt viscosity will produce a different deformation amount is noted. However, Ebnesajjad et al. discloses a similar melt viscosity, as applicant, note column 1, line 53 and since the size is rendered obvious, the deformation amount is expected to be similar.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

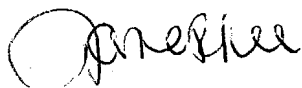
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

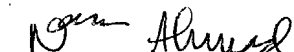
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Ahmad can be reached on 571-272-1487. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and none for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee
February 20, 2004


NASSER AHMAD
PRIMARY EXAMINER